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Zachary Mahon, Skyler Sheeks,
and Jeremy Tafelmeyer*

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

DAVID AGUILAR,

Plaintiff,

v.

J. TAFELMEYER; et al.,

Defendants.

Case No. 3:23-cv-00547-ART-CSD

**DEFENDANTS' ANSWER TO
PLAINTIFF'S CIVIL RIGHTS
COMPLAINT
(ECF NO.7)
(JURY TRIAL DEMANDED)**

Defendants, Zachary Mahon, Skyler Sheeks, and Jeremy Tafelmeyer, by and through counsel, Aaron D. Ford, Attorney General for the State of Nevada, and Andrew C. Nelson, Senior Deputy Attorney General, hereby answer Plaintiff's Civil Rights Complaint by an Inmate (Complaint), (ECF No. 7), as follows:

A. JURISDICTION

1) Defendants admit that this Court has jurisdiction pursuant to 28 U.S.C. § 1343(a)(3) and 42 U.S.C. § 1983. Defendants deny that jurisdiction is proper on any other basis.

2) Defendants admit Plaintiff, David Aguilar (Aguilar), is currently housed within the Nevada Department of Corrections (NDOC) at Northern Nevada Correctional Center (NNCC). Defendants deny any and all remaining allegations set forth in this paragraph.

1 3) Defendants deny that any violations of Aguilar's constitutional rights
2 occurred at any time or in any manner at NNCC. Defendants deny any and all remaining
3 allegations set forth in this paragraph.

4 **B. DEFENDANTS**

5 1) Defendants admit Jeremy Tafelmeyer, believed to be sued as J. Tafelmeyer,
6 was formerly employed as a Correctional Officer (C/O) at NNCC. Defendants deny any and
7 all remaining allegations set forth in this paragraph.

8 2) No response is required since the Officer of the Attorney General (OAG) does
9 not represent Joseph Johnson at this time. To the extent a response is necessary,
10 Defendants are without sufficient knowledge or information to form a belief of the truth of
11 the allegations set forth in this paragraph, therefore, deny on that basis.

12 3) Defendants admit Zachary Mahon, believed to be sued as Mahon, was
13 formerly employed as a (C/O) at NNCC. Defendants deny any and all remaining allegations
14 set forth in this paragraph.

15 4) Defendants admit Skyler Sheeks, believed to be sued as Sheeks, is currently
16 employed as a C/O at NNCC. Defendants deny any and all remaining allegations set forth
17 in this paragraph.

18 5) No response is required since Aguilar left this paragraph blank within his
19 Complaint. To the extent a response is necessary, Defendants are without sufficient
20 knowledge or information to form a belief of the truth of the allegations set forth in this
21 paragraph, therefore, deny on that basis.

22 **C. NATURE OF THE CASE**

23 In response to this section of Aguilar's Complaint, (ECF No. 7 at 2-3), Defendants
24 are without sufficient knowledge or information to form a belief about the truth of the
25 allegations set forth in this paragraph, therefore, deny on that basis.

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D. CAUSE(S) OF ACTION

CLAIM I: DENY

1) Defendants admit Aguilar has rights afforded to him under the Eighth Amendment of the United States Constitution. Defendants deny those rights, or any other rights afforded to Aguilar, were violated at any time or in any manner by the Defendants.

2) Defendants are without sufficient knowledge or information to form a belief about the truth of the allegations in this paragraph and therefore, the allegations are denied.

3) Defendants are without sufficient knowledge or information to form a belief about the truth of the allegations in this paragraph and therefore, the allegations are denied.

4) Supporting Facts¹

1. Defendants are without sufficient knowledge or information to form a belief about the truth of the allegations in this paragraph and therefore, the allegations are denied.

2. Defendants are without sufficient knowledge or information to form a belief about the truth of the allegations in this paragraph and therefore, the allegations are denied.

3. Defendants are without sufficient knowledge or information to form a belief about the truth of the allegations in this paragraph and therefore, the allegations are denied.

4. Defendants are without sufficient knowledge or information to form a belief about the truth of the allegations in this paragraph and therefore, the allegations are denied.

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¹ Defendants identify six (6) paragraphs within this section of Plaintiff's Complaint and answer this section accordingly. (ECF No. 7 at 4-5).

5. Defendants are without sufficient knowledge or information to form a belief about the truth of the allegations in this paragraph and therefore, the allegations are denied.

6. Defendants are without sufficient knowledge or information to form a belief about the truth of the allegations in this paragraph and therefore, the allegations are denied.

E. PREVIOUS LAWSUITS

1) Defendants are without sufficient knowledge or information to form a belief about the truth of the allegations in this paragraph and therefore, the allegations are denied.

2) Defendants are without sufficient knowledge or information to form a belief about the truth of the allegations in this paragraph and therefore, the allegations are denied.

3) Defendants are without sufficient knowledge or information to form a belief about the truth of the allegations in this paragraph and therefore, the allegations are denied.

F. REQUEST FOR RELIEF

1) Defendants deny Aguilar is entitled to any relief sought within this paragraph of his Complaint.

G. ADDITIONAL ALLEGATIONS

As to any remaining allegations contained in Aguilar's Complaint, not specifically admitted or denied herein, Defendants hereby deny any and all such allegations.

H. DEFENDANTS' AFFIRMATIVE DEFENSES

Defendants also assert the following Affirmative Defenses:

First Affirmative Defense

Aguilar has failed to state a claim for which relief can be granted.

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Second Affirmative Defense

Aguilar has failed to state a cognizable constitutional claim pursuant to 28 U.S.C. § 242, 28 U.S.C. § 1343 (a)(3), 42 U.S.C. §1983, and/or NRS 41.0322, 441A.220 and NRS 209.885.

Third Affirmative Defense

At all times mentioned in Aguilar's Complaint, Defendants did not personally participate in any of the alleged violations and/or were neither the cause-in-fact nor the proximate cause of Plaintiff's damages, if any.

Fourth Affirmative Defense

Defendants are not legally responsible for the actions and/or omissions of other third parties.

Fifth Affirmative Defense

Defendants are entitled to qualified immunity.

Sixth Affirmative Defense

Defendants are entitled to discretionary act immunity.

Seventh Affirmative Defense

Aguilar's claims are barred pursuant to the doctrine of sovereign immunity and the Eleventh Amendment of the United States Constitution.

Eighth Affirmative Defense

Aguilar's claims are barred as Plaintiff has failed, refused, or neglected to take reasonable steps to mitigate his damages, therefore barring or diminishing his ability to recover.

Ninth Affirmative Defense

Aguilar failed to exhaust his administrative remedies pursuant to the Prisoner Litigation Reform Act, NRS 41.0322 and/or NRS 209.243, and NDOC Administrative Regulation (AR) 740.

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Tenth Affirmative Defense

Defendants held an objective good faith belief that they were acting reasonably and that their actions were privileged and legally justified.

Eleventh Affirmative Defense

There can be no recovery for damages under 42 U.S.C. § 1983 against government officials acting in their official capacity.

Twelfth Affirmative Defense

Defendants, at all relevant times, acted with due care and circumspection in the performance of their duties.

Thirteenth Affirmative Defense

Aguilar's claims for relief are barred as Plaintiff's damages are speculative and cannot be calculated with any certainty or reliability.

Fourteenth Affirmative Defense

Defendants are not the direct or proximate cause of the alleged constitutional deprivations or tortious actions as alleged.

Fifteenth Affirmative Defense

Defendants are immune from liability pursuant to Nevada Revised Statutes §§ 41.031- 41.032 et. seq.

Sixteenth Affirmative Defense

Defendants, at all relevant times, acted in good faith toward Plaintiff and possessed a good faith belief that Defendants were acting reasonably, and that Defendants' actions were privileged and legally justified, and Defendants are entitled to qualified good faith immunity from damages.

Seventeenth Affirmative Defense

Aguilar is barred from seeking punitive damages pursuant to Nevada Revised Statute § 41.035 et. seq.

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Eighteenth Affirmative Defense

Aguilar is barred from seeking an award of attorney fees pursuant to 42 U.S.C. § 1988 and § 1998.

Nineteenth Affirmative Defense

Each purported claim for relief is barred by the doctrines of *res judicata* and/or collateral estoppel.

Twentieth Affirmative Defense

Each purported claim for relief is barred as Aguilar is estopped from pursuing any claim against Defendants in accordance with equitable principles of jurisprudence.

Twenty First Affirmative Defense

Aguilar's claims for relief are barred by the Statute of Limitations and/or Statute of Frauds.

Twenty Second Affirmative Defense

Each purported claim for relief is barred as the answering Defendants are not legally responsible for the actions and/or omissions of other named or unnamed Defendants.

Twenty Third Affirmative Defense

Aguilar's claims are barred by the doctrine of comparative negligence because his actions were more than 51% of the cause of any damages in this case.

Twenty Fourth Affirmative Defense

Each purported claim for relief is barred pursuant to the doctrine of unclean hands.

Twenty Fifth Affirmative Defense

Aguilar's claims, or parts thereof, are barred due to the fact there is no causation between the alleged facts and the damages sought in the Complaint.

Twenty Sixth Affirmative Defense

Aguilar is barred from receiving Court Costs arising under 42 U.S.C. § 1988 and § 1997e.

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Twenty Seventh Affirmative Defense

Aguilar is not entitled to prejudgment interest from the date of filing of his initial Complaint.

Twenty Eighth Affirmative Defense

Aguilar has failed to provide for any cognizable damages.

Twenty Ninth Affirmative Defense

All possible affirmative defenses may not have been alleged in as much as insufficient facts and other relevant information may not be available after reasonable inquiry and, pursuant to FED. R. CIV. P. 11, Defendants hereby reserve the right to amend their answers and these affirmative defenses as additional information becomes available.

I. PRAYER FOR RELIEF

WHEREFORE, Defendants pray for relief as follows:

1. That Aguilar take nothing by virtue of his Complaint.
2. For attorney fees and costs of defending this suit.
3. A jury trial is demanded

DATED this 15th day of March, 2024.

AARON D. FORD
Attorney General

By: /s/ Andrew C. Nelson
ANDREW C. NELSON, Bar No. 15971
Senior Deputy Attorney General

Attorneys for Defendants

CERTIFICATE OF SERVICE

I certify that I am an employee of the State of Nevada, Office of the Attorney General, and that on March 15, 2024, I filed the foregoing, **DEFENDANTS' ANSWER TO PLAINTIFF'S CIVIL RIGHTS COMPLAINT**, via this Court's electronic filing system. Parties that are registered with this Court's electronic filing system will be served electronically. For those parties not registered, service was made by depositing a copy for mailing in the United States Mail, first-class postage prepaid, addressed to the following:

Luke Busby, Esq.
316 California Ave.
Reno, NV 89509

/s/ Karen Easton
An employee of the
Office of the Nevada Attorney General